

Atty Docket: Belersdorf 756-KGB/BSL

REMARKS

Claims 1-10 were pending in the application. Claim 2 is canceled. Claims 1, 6, 8, 9 and 10 were amended and new claims 11-15 were added.

The amendments do not add new matter as each limitation is disclosed. For example, see page 5-6 (for claim 1) and page 8-9 (for claim 11). Claim 6 was merely reworded to place in more proper form for US practice.

The new dependent claims were derived from previous claims and are clearly supported.

The objections and rejections will be addressed in the order presented in the office action.

Oath/Declaration

Submitted herewith is a copy of the declaration where the inventor has initialed the correction of her address.

Accordingly, the rejection/objection should be moot.

Priority Claim

Examiner has acknowledged the claim for priority but indicates that the certified copy of the priority document has not been received.

Applicants include herewith evidence of the filing and receipt of the document. Please find attached [a] a copy of the title page of the priority document; and [b] a copy of the postcard receipt that was stamped received on April 15, 2002.

Accordingly, the claim for priority is valid and complete.

Rejections Under § 101

Claim 1 has been amended to properly recite a method of protecting skin. Distinct and clear steps are set out.

Accordingly, this rejection should be withdrawn.

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Rejections Under § 112, 2nd Paragraph

(i) The amendment to claim 1 is believed to overcome this rejection.

(ii) Respectfully, the terms *water-soluble* and *water-dispersible* are very well-known in the art and cannot reasonably be viewed as indefinite. **See attached PTO DATABASE search results for these terms in patent claims.** The search results indicate that these terms are not indefinite and are widely used and understood.

Further, these are not relative terms, but describe properties that a composition may or may not possess. Although some of the parameters governing these properties may be quantified, this in itself does not render these terms *relative* and *indefinite* in the context of the instant claims.

It is respectfully requested that the rejection be withdrawn.

(iii) - (iv) Examiner is not correct that all o/w formulations are emulsions. O/W formulations can be microemulsions which are known in the art to be distinguishable from conventional emulsions. With respect to cosmetics, e.g., the smaller and more uniform droplets of the internal phase impart various properties deemed desirable for certain purposes. For example, microemulsions may be clear or translucent whereas emulsions are not.

Hydrodispersion are o/w formulations that are stabilized by thickeners. The thickening may actually be of such magnitude as to form a gel-like phase. Thus, this is also different from emulsions and microemulsions.

In sum, those in the art would not find these terms vague and confusing.

It is respectfully requested that the rejections be withdrawn.

(v) The issues relating to broad recitations being followed by narrower limitations has been addressed by amendment of claim 8, and the addition of new claims 12 and 13.

(vi) The term "customary UV filter substance" in claim 1 has been deleted.

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(vii) UV-A filter substances are defined in detail starting at the bottom of page 12 of the specification.

(viii)-(ix) The term "light protection preparation" has been deleted by the foregoing amendment of claim 8.

Rejections Under § 102

The amended claims clearly recite methods of protecting skin. Accordingly, the claims cannot be anticipated by the compositions of Anderle or Eisenhart.

Further, in view of the amendment to claim 1, claim 2 cannot be anticipated by Okawa.

Rejections Under § 103

Although Anderle discloses the uses of polyurethanes in various products, he does not suggest film forming O/W emulsions as skin protectants. Further, this deficiency in the disclosure is not cured by combining Anderle with Koch or Ansmann.

At various points in the Anderle reference, certain elements are referred to that relate to the instantly claimed subject matter: e.g., waterborne polyurethanes, water dispersibility, a sunscreen lotion as in Example 24. However, a fair reading of Anderle would not teach or suggest the claimed method to persons of ordinary skill in the art.

For example, in Ex. 24, one with skill in the art would not appreciate the actual form of the sunscreen lotion. Is it an o/w formulation? If so, is it an emulsion? Microemulsion? Hydrodispersion? One cannot conclude one way or the other, and neither is this issue given any significance.

Thus, Examiner makes a substantial leap when she concludes that the combination of Anderle's polyurethane sunscreen lotion with UV blocks from Ansmann and Koch renders the claims obvious.

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At best, the references provide a substantial number of components to pick and choose from to reconstruct the claims in hindsight. However, any actual suggestion in Anderle to arrive at the claimed method is minimal - obvious to try, at best.

This is supported by the fact that Anderle's closest prior art, Ex. 24, is not disclosed as being a film-forming o/w emulsion. Further, there is no basis to suggest that it inherently has these properties.

It is respectfully requested that the rejections under § 103 be withdrawn.

Last, it is respectfully suggested that neither Okawa by itself, or combined with Auweter renders claims 3-4 obvious. Okawa is directed toward an ink stenciling composition. As such, it is clearly non-analogous art. What would be the rationale offered to explain why persons of ordinary skill in the cosmetic/dermatological arts would search the industrial printing and ink arts for tips on protecting skin?

Similarly, there would be no suggestion to combine Okawa's ink stenciling compositions with Auweter, whose compositions are solids, and used for animal feeds, pharmaceuticals etc.

Examiner is respectfully reminded that the test of obviousness is not whether components may be combined, but whether the art suggests the desirability of the combination. The cited references do not teach or suggest the claimed method.

Accordingly, the rejection should be withdrawn.

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CONCLUSION

Applicants have addressed each objection and rejection, and believe that the claims are in condition for allowance.

Respectfully Submitted,

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MARK UP OF AMENDED CLAIMS

1. (Amended) Method of using film-forming, protecting skin from exposure to light, said method comprising the topical administration of a cosmetic or dermatological O/W formulation comprising water-soluble or water-dispersible polyurethanes for having improved improving the water resistance of cosmetic or dermatological formulations and further comprising at least one customary UV filter substance, the method further comprising the steps of:

(a) topically applying to said skin a cosmetic or dermatological formulation comprising film-forming water dispersible polyurethane composition,

wherein, the polyurethane composition comprises,
at least one component formed by polyaddition of (i) at
least one diisocyanate and (ii) at least one diol containing
acid or salt groups, with (iii) a di-hydric or poly-hydric
compound selected from the group consisting of diols,
aminoalcohols, diamines, polyesterols, polyetherols; and

at least one UV filtering compound;

(b) applying said composition to said skin to form a moisture
resistant layer.

6. (Amended) The method of claim 1, wherein the UV filter substance is water soluble.

8. (Amended) The method of claim 1, wherein the cosmetic or dermatological preparations
comprise one or more water-soluble UV-A filter substances, particularly water-soluble
UV-A filter substances chosen from the group consisting of phenylene 1,4-bis(2-
benzimidazolyl)-3,3'-5,5'-tetrasulfonic acid and/or 1,4-di(2-oxo-10-sulfo-3-
benzylidenemethyl)benzene and/or salts thereof, particularly the corresponding sodium,

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~~potassium or triethanolammonium salts and/or the corresponding 10 sulfate compounds, in particular phenylene 1,4-bis(2-benzimidazolyl) 3,3',5,5'-tetrasulfonic acid bis-sodium salt.~~

9. (Amended) The method as claimed in claim 1, further comprising ~~wherein~~ at least one broadband filter selected from the group consisting of ~~is chosen from the group of~~ bis-resorcinyltriazines and derivatives thereof, in particular 2,4-bis[[4-(2-ethylhexyloxy)-2-hydroxyphenyl]-6-(4-methoxyphenyl)-1,3,5-triazine.

10. (Amended) The method as claimed in claim 1, further comprising ~~wherein~~ at least one broadband filter wherein said filter is a ~~chosen from the group of~~ benzotriazole or derivative thereof, derivatives, in particular 2,2'-methylenebis(6-(2H-benzotriazol-2-yl)-4-(1,1,3,3-tetramethylbutyl)phenol) and/or 2-(2H-benzotriazol-2-yl)-4-methyl-6-[2-methyl-3-(1,3,3,3-tetramethyl-1-((trimethylsilyl)oxy)disiloxanyl)propyl]phenol.